

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Case No.: 3:20-cv-00231-RFB-CSD

BRENDAN JAMES NASBY,

Plaintiff

v.

STATE OF NEVADA, et al.,

Defendants

Order

Re: ECF No. 37

Before the court is Plaintiff's motion for leave to amend and proposed first amended complaint (FAC). (ECF No. 37.) Defendant did not file a response.

The failure of a party to oppose a motion (except a motion for summary judgment under Rule 56 or motion for attorney's fees) constitutes consent to granting of the motion. LR 7-2(d). Since Defendants did not oppose Plaintiff's motion for leave to amend, the motion will be granted.

(1) Plaintiff's motion for leave to amend (ECF No. 37) is **GRANTED**.

(2) The Clerk shall file the FAC (ECF No. 37 at 9-133).

(3) This action will **PROCEED** with the Fourteenth Amendment Due Process claim in Claim 1 against Kenneth Triggs, B. Gutierrez, David Tristan, E.K. McDaniel, Renee Baker, Rusty Donnelly, Jackie Crawford, Tara Carpenter¹, James Dzurenda and Unknown Defendants A, B and C (once Plaintiff identifies them) and the Eighth Amendment excessive fines claim in

¹ Carpenter is not in the caption or list of defendants (ECF No. 37 at 9-10), but is referenced in the body of the FAC in Claims 1 and 2; therefore, the court will assume Plaintiff intends to proceed against Carpenter in the FAC. If this is not the case, Plaintiff shall notify the court immediately.

1 Claim 2 against Kenneth Triggs, B. Gutierrez, Rusty Donnelly, E.K. McDaniel, David Tristan,
2 and Tara Carpenter. Defendants named in the original complaint who are not named in the FAC
3 are no longer part of this case.

4 (4) Within **14 days** of the date of this Order, the Attorney General's Office shall file a
5 notice advising the court and Plaintiff of: (a) the names of the defendants for whom it accepts
6 service and (b) the names of the defendants for whom it does not accept service. For those
7 defendants for whom it does not accept service, the Attorney General's Office shall file the last-
8 known addresses under seal, but shall not serve the inmate Plaintiff with the last known
9 addresses. If the last known address is a post office box, the Attorney General's Office shall
10 attempt to locate and provide the last known physical address.

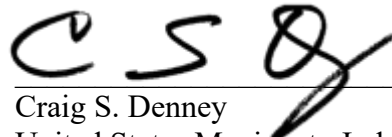
11 (5) If service cannot be accepted for any of the named defendants, Plaintiff shall file a
12 motion identifying the unserved defendants and request issuance of a summons for those
13 defendants. If there are any defendants for whom the Attorney General's Office has not accepted
14 service, and does not have a last known address, it is Plaintiff's responsibility to provide the
15 court with an address for service.

16 (6) If the Attorney General accepts serve of process for any of the named defendants,
17 they shall file an answer or other response to the complaint within **21 days** of the date of this
18 Order.

1 (7) The remaining scheduling order deadlines are hereby **VACATED**. Within **21 days** of
2 the date of this Order, the parties shall file a joint proposal concerning whether any discovery
3 needs to be completed in light of the filing of the FAC, and if so, a proposed deadline for the
4 completion of discovery, as well as proposed deadlines for the filing of dispositive motions and
5 the joint pretrial order.

6
7 **IT IS SO ORDERED.**

8 Dated: September 26, 2022

9
10 
11 Craig S. Denney
12 United States Magistrate Judge
13
14
15
16
17
18
19
20
21
22
23